IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO :24813 of 2006

Dated: 4th December 2006.

Between:
M/s. Khaja Motors, Near Air Port, Mamnoor, Warangal.

..... PETITIONER

AND

The Commercial Tax Officer, Fort Road Circle, Warangal, Warangal District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

W.P.NO.24813 OF 2006

ORAL ORDER:
(Per the Hon'ble Sri Justice J.Chelameswar)

This writ petition is filed with the prayer as follows:

> " For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the
> 2nd respondent in rejecting the appeal filed by the petitioner for the tax period April, 2005 to July, 2006 by the impugned Proceedings in I.No.253/2006-07 dated 09.10.2006 as illegal, arbitrary, high-handed without authority of law and jurisdiction and in violation of principles of natural justice and set aside the same and pass such other order of orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

It may not be necessary for us to go into the factual details of the case, for the present purpose. The 2nd respondent rejected the appeal of the petitioner by his order dated 09-10-2006 on the ground that the appeal was not accompanied by the deposit of 12.5 percent of the disputed tax. The petitioner asserts in the affidavit filed in support of the writ petition that, as a matter of fact, he paid more than 12.5 percent of the disputed tax, contrary to the assertions of the respondents.

In this background, earlier, when the matter is

taken up for admission, the learned Government Pleader for Commercial Tax, sought time to obtain instructions. Today, on instructions, the leaned Government pleader submits that the impugned order may be set aside and the matter be remitted back to the 2nd respondent for disposal of the same in accordance with law.

Accordingly, the writ petition is disposed of at the stage of admission setting aside the impugned order of the 2nd respondent and directing the 2nd respondent to consider the appeal of the petitioner on merits in accordance with law.

J.Chelameswar, J

D.Appa Rao, J

4th December 2006
mrk